

The Delray Democrat

Un-Masking is Un-Remarkable¹

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While Donald Trump was spending his Memorial Day weekend on the golf course, Judge Robert L. Hinkle was hard at work preventing Florida Republicans from continuing to violate the U.S. Constitution. On Sunday, May 24, 2020, he released his decision in *Jones v. DeSantis*, striking down substantial portions of Florida State Law 7066 (“SB7066”) as unconstitutional. The decision is historic, eloquent, and a model of clarity.

SB7066 was passed on a party-line vote in Florida’s Republican-dominated legislature in response to an amendment to the Florida Constitution passed by 65% of voters in 2018. “Amendment 4” restored the franchise to some 1.4 million Floridians previously convicted of a felony (other than murder or one involving a sexual offense) upon “completion of sentence.”

SB7066 interpreted “completion of sentence” to include payment of **finances, costs, fees and restitution** ordered by a court. The statute was challenged by a small group of affected individuals, and in October 2019, Judge Hinkle ruled in their favor. He issued a preliminary injunction that prevented Florida from requiring payment of financial obligations a person is genuinely unable to pay, and his decision was affirmed on appeal. He later granted class certification to the lawsuit, so his decision would apply to all individuals affected by the law.

After a trial in April, Judge Hinkle made the injunction permanent. He also broadened the circumstances under which Florida is prohibited from requiring payment of outstanding financial obligations. Because the **court costs and fees** that accompany virtually all sentences are used to fund government operations they are a tax in substance if not name. It is thus not necessary to establish an inability to pay because it violates the Twenty-Fourth Amendment of the U.S. Constitution to require *anyone* to pay a tax in order to be permitted to vote.

Florida *can* require payment of **finances and restitution**, which are assessed in a minority of cases, on persons able to pay, but not if the obligation has been converted to a civil lien. Finally, persons who were represented by a public defender at their most recent conviction are deemed unable to pay and thus may register and vote.

The Florida ACLU, NAACP-LDF, Brennan Center, and Southern Poverty Law Center collectively represented the plaintiffs and have prepared a flier (available [here](#)) for people who have had a felony conviction and served their sentence but have questions about what the decision means for them. Anyone who can answer “yes” to any of the questions below is eligible to register and vote:

- They owe only **court costs or fees** (no restitution and fines)

¹ *The Delray Democrat*, June 2020, p. 6.

- They owe **restitution or fines** but they were converted to a civil lien
- They were represented by a public defender at their most recent conviction

Moreover, persons uncertain of answers to the above can request an [advisory opinion](#) from the state as to the amount of restitution or fines owed. If they do not receive an answer within 21 days, they may register. MKC